IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 20596 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DIVYESH VASANTLAL BADANI - Petitioner(s)
Versus
THE STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR UMANG K CHOKSI for Petitioner(s) : 1,
MS.MD MEHTA AGP for Respondent(s) : 1,
None for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 14/08/2007

ORAL JUDGMENT

1. **RULE**. Learned A.G.P. Ms.M.D. Mehta waives service.

2. The petitioner has invoked Article 226 of

the Constitution for challenging order dated 19.05.2006 of the Deputy Collector, Stamp Duty Valuation Organization, Junagadh whereby, application of the petitioner for making reference under the provisions of Section 32-B of the Bombay Stamp Act, 1958 (for short, “the Act”) was rejected only on the ground of delay. It was stated and submitted on behalf of the respondents that the impugned order assessing market value and stamp duty payable by the petitioner was made on 07.02.2001 and the petitioner had made an application for making reference along with an application for condonation of delay and also deposited the requisite amount of Rs.14,821/- on 05.03.2002. However, the application for reference was not entertained and rejected by the impugned order on the ground of delay as aforesaid. Learned A.G.P. Ms.M.D. Mehta, appearing for the respondents, fairly conceded that, in view of serious lapses during the proceedings under Section 32-A of the Act and payment and receipt of deposit for making of reference and in view of several judgments of this Court, the case of the petitioner was required to be referred for consideration and decision on merits by the Chief Controlling Revenue Authority.

3. Therefore, by consent, petition is partly

allowed with the direction that the Collector concerned shall make a statement of the case of the petitioner and refer it to the Chief Controlling Revenue Authority, within a period of 60 days after which the so-called stamp appeal of the petitioner shall be considered and decided in accordance with law on merits by the Chief Controlling Revenue Authority after affording to the petitioner an opportunity of being heard. The impugned order dated 19.05.2006 is hereby quashed. Rule is made absolute accordingly with no order as to costs.

(D.H.WAGHELA, J.)

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